

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4396 OF 2004

Miss. Hemlata Shanker Urankar ..Petitioner

Vs.

Supdt. Engineer, M.S.E.B.
and ors. ..Respondents

Mr. Avinash Fatangare i/by Nishigandh N. Patil for
petitioner.

CORAM: B.H. MARLAPALLE, J.

Date : December 14, 2007.

P.C.:

1. Heard the learned counsel for the petitioner. She had filed Complaint (ULP) No. 215 of 1985 alleging unfair labour practice under Item 1 of Schedule IV of the M.R.T.U. & P.U.L.P. Act, 1971 on account of the termination of her service as per the office order dated 19/8/1985 issued by the respondent - Board and the said complaint was dismissed in default by the Labour Court on 9/1/1992. After more than seven years i.e. on 24/11/1999, the petitioner

filed an application for restoration of the complaint and it came to be registered as Misc. Application No. 226 of 1999. The said application has been dismissed by the learned Judge of the 3rd Labour Court as per his Judgment and Order dated 15/12/2000. The learned counsel for the petitioner pointed out that the order passed by the Labour Court on 15/12/2000 was challenged in Revision Application (ULP) No. 6 of 2001, which came to be dismissed on 21/1/2004 and, therefore, this petition has been filed in time on 19/4/2004.

2. The learned Judge of the Labour Court noted from the averments in the application for restoration itself that after the complaint was dismissed on 9/1/1992, she had approached her Advocate in February, 1996 after she had last met him in the year 1988. Her Advocate informed her in February 1996 that the complaint was dismissed but could not return her the papers as they were not traceable. Thereafter there was no follow up till March 1998 when she again went to the Advocate and asked for papers. Even then the restoration application was filed for the first time

on 24/11/1999. The Labour Court noted that there was a delay of 7 years and 9 months in applying for restoration and the delay was not explained properly and, therefore, as per the Labour Court the applicant failed to make out good and sufficient reasons to condone the delay of 7 years and 9 months. The learned Member of the Industrial Court was satisfied that the reasoning set out by the Labour Court for dismissing the application for condonation of delay caused in applying for restoration of the complaint was just and proper and, therefore, there was no case made out to cause interference in the same under his revisionary powers under Section 44 of the Act.

3. I have heard the learned counsel for the petitioner, perused the averments made in the restoration application, the application for condonation of delay as well as the affidavit in support thereof filed by the petitioner. The learned Judge of the Labour Court has considered the averments as they were made and was satisfied that the delay caused was not explained properly. I do not find any error apparent on the face of the record so as to

cause interference under Article 227 of the Constitution in the concurrent findings recorded by both the courts below.

4. Even otherwise, for the first time by order dated 20/7/1985 the petitioner came to be appointed on the basis of the recommendations made by the Competent Selection Committee as a typist on purely temporary basis and came to be posted in Bhiwandi Division No.1 against the vacant post for a period of four months from the date of joining and she joined the said post on 29/7/1985. On 19/8/1985 she was served with the termination order and her service came to be terminated with effect from 20/8/1985 by giving her 24 hours notice as per condition no.3 in the appointment order dated 20/7/1985. The said condition stated that the appointment being on purely temporary basis was liable to be terminated by giving 24 hours notice or on payment of notice period salary by either side for whatsoever reasons. Thus, the petitioner's employment was terminated within about 22 days of service as per condition stated in the appointment order. The appointment order was a purely temporary order and for

a period of four months and in the complaint filed before the Labour Court she had sought the relief of reinstatement in service claiming that the termination was by way of unfair labour practice. In these obtaining circumstances, when the complainant worked only from 29/7/1985 till 19/8/1985, I do not find any reason to accept that the dismissal of the complaint in default initially and the restoration application therein rejected has caused any miscarriage of justice.

5. Hence, the petition is rejected.

(B.H. Marlapalle, J.)